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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HOWARD HERSHIPS,
Plaintiff,

vs.

THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF CALIFORNIA, *et al.*,

Defendants.

Case No.: C 06-CV-6644 MJJ

**AMENDED MOTION TO STAY FIRST
AMENDED COMPLAINT AGAINST
STEVEN T. KIRSCH UNDER F.R.C.P.
12(b)(6)**

Date of Motion: August 28, 2007
Time of Motion: 9:30 a.m.
Ctroom: 11, 19th Floor
Judge: The Hon. Martin J. Jenkins

NOTICE IS HEREBY GIVEN that on August 28, 2007 at 9:30 a.m. or as soon thereafter as
counsel and Steven T. Kirsch may be heard by the above-entitled Court, located at 450 Golden
Gate Ave., San Francisco, CA, 94102, in the courtroom of The Hon. Martin J. Jenkins, defendant
Steven T. Kirsch, *in pro per* and through undersigned counsel, will and hereby does move to

1 stay the action under the *Younger* abstention doctrine for all of the reasons set forth in the papers
2 filed by co-defendants Maxmilian Zarzana and Pinaki Chakravorty, whose motions Kirsch joins in.

3 This motion is brought on the grounds that this action should be stayed under the *Younger*
4 abstention doctrine for all of the reasons set forth in the papers filed by Zarzana and Chakravorty.
5 For these reasons, Kirsch requests that the action be stayed.

6 This motion is based on this Notice of Motion and Motion, the Memorandum of Points and
7 Authorities set forth herein, the pleadings and papers filed herein, all papers relating to the motions
8 filed by Zarzana and Chakravorty, and upon such other matters as may be presented to the Court at
9 the time of the hearing.

10 **I. ISSUES TO BE DECIDED IN MOTION TO STAY**

11 Is application of the *Younger* abstention doctrine appropriate to require stay of the instant
12 action against Kirsch for the reasons set forth in the papers of Zarzana and Chakroavorty?

13 **II. RELEVANT FACTS**

14 **A. Allegations in the First Amended Complaint**

15 Plaintiff filed his First Amended Complaint for Declaratory and Injunctive Relief on April
16 9, 2007. Plaintiff does not seek relief under his first claim against Kirsch. By his second claim,
17 plaintiff appears to allege that Kirsch presented an improper criminal complaint against him so that
18 Kirsch could further his chances of collecting a civil judgment. By his third claim, plaintiff
19 appears to allege that the defendants engaged in a conspiracy to deprive him of his rights so that
20 Kirsch could further his chances of collecting a civil judgment.

21 **III. LEGAL ARGUMENT**

22 **A. The *Younger* Abstention Doctrine Mandates Stay**

23 For all the reasons set forth in the papers of co-defendants Zarzana and Chakroavorty, the
24 *Younger* abstention doctrine mandates stay.

